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July 10, 2008

Via Federal Express

Honorable Maxine Chesney
United States District Judge
450 Golden Gate Ave.
Courtroom 7, 19th Floor
San Francisco, CA 94102



ATLANTA

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TWIN CITIES

WASHINGTON, DC

Re: *Mikael Tjuatja v. CHI Management Group, L.P.*; Cause No. 08-0896;
United States District Court, Northern District of California

Dear Judge Chesney:

Pursuant to ADR Local Rule 6-9(d), I write on behalf of Defendant CHI Management Group, L.P. ("CHI") to respectfully request permission for representatives of my client to participate in the mediation of the above-referenced matter by telephone, rather than attending in person.

This matter involves a dispute over the denial of Plaintiff Mikael Tjuatja's claim for benefits under CHI's Self-Insured Short-Term Disability Plan. While Mr. Tjuatja believes that he has met the requirements to receive benefits from the Plan, the Plan Administrator disagreed and, accordingly, denied his claim for benefits. Under the facts known to CHI at this time, it believes that the realistic amount in controversy in this case is significantly less than \$75,000.

Mediation is set to convene at the offices of Jones Day in San Francisco, California, on July 29, 2008 from 9:00 a.m. to 1:00 p.m. (PDT). While I have made arrangements to attend the conference in person on behalf of CHI, the attendance of CHI's corporate representative and the corporate representative of the insurer of its long-term disability plan, Unum Life Insurance Company of America, would impose an extraordinary and unjustifiable hardship for the following reasons:

CHI's representative is Carole DeMarco, its Associate General Counsel. CHI is a large company with over 17,000 employees, but with only two in-house attorneys. Ms. DeMarco is one of the two attorneys in the company's Legal Department, which is located in Plano, Texas. It is CHI's practice that both attorneys cannot be out of the office at the same time. During the week of July 28, CHI's General Counsel will be out of the office, and CHI is scheduled to close on a large corporate transaction, which necessitates the presence of at least one of its in-house

FISH & RICHARDSON P.C.

Honorable Maxine Chesney
July 10, 2008
Page 2

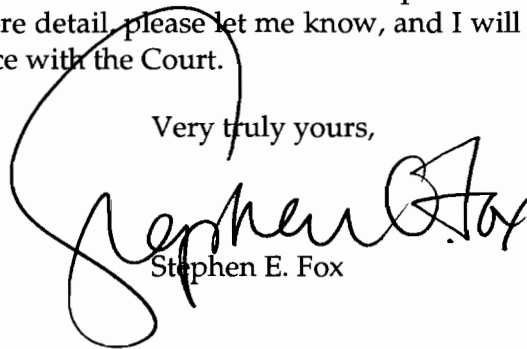
counsel. Therefore, requiring Ms. DeMarco to travel to California to attend the mediation in California during the week of July 28 would impose an extraordinary hardship on CHI. Ms. DeMarco is, however, available to participate in the mediation by telephone.

Although Unum is not a named party, the mediator has requested its participation on the basis that its approval may be necessary to achieve a full settlement of Mr. Tjuatja's claims.¹ Unum's representative is Donald Sapala, its Vice President and Managing Counsel. Mr. Sapala lives and works in Chattanooga, Tennessee (where Unum is located). Mr. Sapala's daughter is traveling to Chattanooga from New York on July 29, so he must be in Chattanooga during the afternoon/early evening to meet his daughter. Given his prior family commitments and the small amount in controversy in this case, requiring Mr. Sapala to travel to California to attend the mediation in person would pose an unjustifiable hardship. Mr. Sapala is, however, available to participate in the mediation by telephone from 9:00 a.m. to 1:00 p.m. (PDT), as scheduled.²

I have conferred with Plaintiff's counsel, Timothy Fricker, concerning this matter, and Mr. Fricker indicated that he is not opposed to this request.

I appreciate the Court's consideration of this request. If the Court wishes to discuss this matter in more detail, please let me know, and I will contact Mr. Fricker to arrange for a conference with the Court.

Very truly yours,



Stephen E. Fox

SEF/emb

¹ CHI's Short-Term Disability Plan is self-funded, but its Long-Term Disability Plan is underwritten by Unum. Thus, Unum's potential liability relates only to Mr. Tjuatja's argument that if he succeeds in reversing the denial of his application for short-term disability benefits, he may be eligible for long-term disability benefits (which CHI vigorously disputes).

² Because Mr. Sapala is traveling out of the office due to prior commitments from July 14-25 and because of scheduling conflicts of counsel, this was the only date prior to the July 30 mediation deadline upon which the parties could convene the mediation.

FISH & RICHARDSON P.C.

Honorable Maxine Chesney
July 10, 2008
Page 3

cc: ADR Unit – U.S. District Court
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Via U.S. Mail

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8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**
10

11 MIKAEL TJUATJA,

12 Plaintiff,

13 v.

14 CHI MANAGEMENT GROUP, L.P. SHORT
15 AND LONG TERM DISABILITY PLAN,

16 Defendant.

Case No. 08-0896-MMC

**[PROPOSED] ORDER GRANTING
DEFENDANT'S REQUEST TO BE
EXCUSED FROM ATTENDING IN
MEDIATION IN PERSON**

17 The Court is in receipt of Defendant's request that the client representative of Defendant
18 CHI Management Group, L.P. and the representative of the insurer of its Long-Term Disability
19 Plan, Unum Life Insurance Company of America, be permitted to participate in the mediation of
20 this matter, which is scheduled for July 29, 2008, by telephone, rather than attending in person. The
21 Court notes that Plaintiff's counsel is not opposed to this request. Good cause appearing, the
22 request is GRANTED.

23 IT IS HEREBY ORDERED THAT the representatives for Defendant CHI Management
24 Group, L.P. and for Unum Life Insurance Company of America are excused from attending in the
25 mediation in person and may, instead, participate by telephone.
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27 Dated: _____

Honorable Judge Presiding
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